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BEFORE THE ARIZONA CORPORATION COMMISSION RECEIVED

Arizona Corporation Commission

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SEP 18 1998

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DOCKETED BY

DEPARTMENT CONTROL

IN THE MATTER OF COMPETITION IN  
THE PROVISION OF ELECTRIC  
SERVICES THROUGHOUT THE STATE  
OF ARIZONA.

Docket No. RE-00000C-94-0165

### COMMENTS OF THE RESIDENTIAL UTILITY CONSUMER OFFICE

The Residential Utility Consumer Office ("RUCO") makes the following comments on the proposed permanent amendments to the Retail Electric Competition Rules and related rules (the "Rules"). Attached as Exhibit A are the actual textual modifications which RUCO proposes.

#### R14-2-203 Establishment of Service

Paragraph D.4 requires that customers cannot receive service from an Electric Service Provider until the regularly-scheduled meter read date at least 15 days after requesting such service. While this may be reasonable for customers who are already receiving electric service and desire to switch generation providers, it is unreasonable for customers who are establishing new service (e.g. a residential customer moving to a different home). The current Rule effectively prohibits the customer from selecting an Electric Service Provider as his first provider of generation services. Unless a customer is willing to live in his new home without electricity until the next regularly scheduled meter reading, he would have to take standard offer service from the incumbent utility until the next meter read date, at which time he could switch to a competitive provider. This limitation is unfair to customers and discriminates in favor of the incumbent utilities.

1 The Rule should be clarified to only apply to a customer who is changing his generation  
2 provider, not to a customer who is receiving completely new service.

3 **R14-2-210 Billing and Collection**

4 Paragraph A.1 provides that customers can authorize a meter reading schedule  
5 of less than 25 days, but establishes a maximum reading period of 35 days. RUCO  
6 proposes that customers be permitted to authorize reading schedules that are either  
7 longer or shorter than the 25 to 35 day presumptive period.

8 The emergency enactment of Paragraph A.3.d provides that a customer's failure  
9 to remedy an equipment failure "will result in penalties as imposed by the Commission."  
10 RUCO opposes this provision. The Commission has no authority to impose penalties  
11 on customers of utility services.

12 Paragraph A.6.c provides that, when a bill must be estimated, a customer-  
13 supplied meter read should be used if possible. If a customer-supplied meter read is  
14 used, it is not an estimated bill. Therefore, the provision of paragraph A.6.c should be  
15 moved to paragraph A.5.d, to require that an estimated bill is not permitted if the utility  
16 can obtain a customer-supplied meter reading.

17 Paragraph C.1 requires that all bills be due no later than 15 days after they are  
18 rendered. RUCO proposes that the Rule provide that bills be due no sooner than 15  
19 days after they are rendered.

20 The first sentence of paragraph E.1 is largely duplicative of language which is  
21 included at R14-2-209.F. However, the language proposed in this section contradicts  
22 R14-2-209.F slightly. R14-2-209.F provides that a utility or Meter Service Provider shall  
23 test a meter, but this section incorrectly imposes the duty on a utility or Meter Reading  
24 Service Provider. In addition, R12-2-209.F is broader in allowing not only the customer,  
but also the ESP, UDC or billing entity to request the meter test. This section only

1 provides that a customer can request the test. RUCO proposes omitting the duplicative  
2 language in this section, and retaining the broader and more accurate language of R14-  
3 2-209.F. R14-2-209 creates the obligation to test a meter. This section should merely  
4 set forth the procedure to correct a billing error revealed by a meter tested pursuant to  
5 R14-2-209.

6 The language of paragraph F should be broadened somewhat to include all  
7 financial institutions, not just banks, and to include methods of payment other than  
8 checks.

#### 9 **R14-2-1601 Definitions**

10 The definition of "consumer information" used in this section is inconsistent with  
11 the use of the term "consumer information" in R14-2-1618. Here, consumer information  
12 is defined as being "impartial information...about competition and competitive and  
13 noncompetitive services and is distinct from advertising and marketing." The definition  
14 suggests that "consumer information" is general information about which services are  
15 competitive and which will remain noncompetitive, and information about the transition  
16 to competition. However, the term is used in R14-2-1618.B to describe information  
17 about the specific offering being made to a consumer. The term originally proposed for  
18 this definition was "consumer education", which is more descriptive of what the  
19 definition actually includes. The required disclosures of R14-2-1618.B are no  
20 replacement for educating the public about the nature of the changes in the electric  
21 industry. The Commission should change the term "consumer information" in this  
22 definition to "consumer education." In addition, the Commission should add a provision  
23 to R14-2-1615 requiring the Director of the Utilities Division to implement a consumer  
24 education program prior to January 1, 1999. The Customer Education Working Group,

1 established by the Utilities Division, has already recommended a framework for a  
2 consumer education program. The Director should continue to work with the Customer  
3 Education Working Group in developing the program.

4 RUCO proposes clarifying the date referred to in the definition of "Stranded  
5 Cost." Currently, R14-2-1601.39 refers to assets and obligations acquired or entered  
6 into prior to "the adoption of this Article." To avoid confusion that could result due to the  
7 amendment of the Article approximately two years after its original enactment, the  
8 phrase "the adoption of this Article" should be replaced with "December 26, 1996", the  
9 date of the original adoption of the Article.

10 The definition of "System Benefits" in R14-2-1601.40 should not include nuclear  
11 power plant decommissioning programs. See Section R14-2-1608 below.

#### 12 **R14-2-1603 Certificates of Convenience and Necessity**

13 RUCO proposes modifying the language of paragraph B.5 to require that  
14 unaudited information be identified as such, and the preparer identified. Distinguishing  
15 between audited and unaudited information permits a reviewer of the filing to assign the  
16 appropriate level of scrutiny to the data, potentially saving resources for other areas.

#### 17 **R14-2-1604 Competitive Phases**

18 Currently, the Rules provide that only ½ of 1 percent of residential customers will  
19 be allowed access to competitive electric services each quarter during the two-year  
20 phase-in period. The Rules do not provide any definite benefits for those residential  
21 customers who are denied access to competitive services during the phase-in period.  
22 Therefore, RUCO proposes that the residential phase-in program currently provided for  
23 be significantly expanded in size.

1 It is unclear at whose option load profiling "may" be used, as indicated in section  
2 B.3. RUCO believes that the option should be the customers (in fact, R14-2-1613.J.3  
3 indicates that certain customers "will be permitted" to use load profiling). To avoid any  
4 confusion about whether a customer's right to use load profiling is different after the  
5 residential phase-in period than during the phase-in period, the Rules should read the  
6 same in this section and in R14-2-1613.J.7. RUCO had proposed consistent language  
7 in both sections, which incorporates provisions from both sections.

8 In section C, RUCO proposes that the language require Affected Utilities to  
9 request a rate decrease for standard offer customers, rather than merely allow Affected  
10 Utilities to suggest mechanisms providing benefits to standard offer customers.

11 In section G, the use of the terms "Affected Utility" and "Utility Distribution  
12 Company" are redundant, because "Load-Serving Entity" is defined to include both of  
13 those entities. In addition, the reference to the "date indicated in R14-2-1604.A" is  
14 vague, as that section refers to both January 1, 1999 and January 1, 2001.

15 **R14-2-1606 Services Required to be Made Available**

16 The emergency amendments struck the first clauses in the first sentence of this  
17 Rule. The phrase "in that class", which referred to the first clause, should also be  
18 stricken.

19 **R14-2-1607 Recovery of Stranded Cost of Affected Utilities**

20 RUCO has consistently advocated that standard offer rates be unbundled, and  
21 that all customers' bills reflect a charge for the recovery of stranded costs. RUCO  
22 incorporates the proposals in the testimony of its witness, Dr. Richard Rosen, in the  
23 stranded cost hearing on this matter.  
24

1   **R14-2-1608 System Benefits Charges**

2           System Benefits Charges should not include nuclear fuel disposal and nuclear  
3 plant decommissioning programs. Those programs relate to generation, and therefore  
4 should be included in generation costs, and, if necessary, stranded costs. In addition,  
5 the terms "market transformation" and "long-term public benefit research and  
6 development" programs are vague. Neither term is defined in the Rules. RUCO objects  
7 to the inclusion of programs in the Stranded Benefits Charge which are not identifiable.  
8 In addition, neither of the terms is included in the definition of Stranded Benefits under  
9 R14-2-1601.40.

10   **R14-2-1613 Service Quality, Consumer Protections, Safety and Billing**  
11       **Requirements**

12           RUCO proposes the insertion of a new paragraph D to explicitly state that  
13 customers have a three-day "cooling off period" in which they can rescind their  
14 authorization to change generation providers. Currently, the only reference in the Rules  
15 to a cooling off period is in R14-2-1618.F.8. However, that reference merely requires  
16 that customers be provided information about consumer rights pertaining to rescission.  
17 Nowhere else in the Rules is such a right of rescission explicitly granted. Therefore,  
18 RUCO proposes that the rescission right be clearly granted in R14-2-1613.

19           In paragraphs J.13 through J.15, the Rules provide that certain metering  
20 standards approved by the Director of the Utilities Division will apply. Those standards  
21 should be set forth in the Rules if they are currently available. If they are not currently  
22 available, the Director may be required to comply with the Administrative Procedure  
23 Act's rulemaking requirements in adopting such standards.  
24

1 **R14-2-1617 Affiliate Transactions**

2 Paragraph A.7 requires that transfers of non-tariffed goods from an Affected  
3 Utility to an affiliate be at the higher of fully-allocated cost or market price. RUCO  
4 proposes that language be added which explicitly states that this provision applies to to  
5 an Affected Utility's divestiture its generation assets to an affiliate.  
6

7 **R14-2-1618 Disclosure of Information**

8 RUCO notes that the obligation to provide information is imposed on "Load  
9 Serving Entities," which would include Affected Utilities and Utility Distribution  
10 Companies providing Standard Offer service. RUCO is unsure whether the  
11 Commission intends to require the disclosure for Standard Offer service.

12 RUCO urges caution in establishing mandatory disclosure requirements. If  
13 consumers are overwhelmed with information about their generation choices, they may  
14 be deterred from entering the competitive market. Of course, essential pricing data  
15 should be provided to customers. However, data such as fuel mix and emission  
16 characteristics, which may be important to pockets of consumers, could be made  
17 available upon request, but should not be required for disclosure to all consumers.  
18 RUCO therefore proposes striking sections B.5 through B.7.

19 RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of September, 1998.

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21   
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**RUCO's Proposed Modifications to Emergency  
Amendments to Retail Electric Competition Rules**

**R14-2-203   Establishment of service**

D.4. Service establishments with an Electric Service Provider will be scheduled for the next regular meter read date if the direct access service request is processed 15 calendar days prior to that date and appropriate metering equipment is in place. If a direct access service request is made in less than 15 days prior to the next regular read date, service will be established at the next regular meter read date thereafter. The utility may offer after-hours or earlier service for a fee. This section shall not apply to the establishment of new service, but is limited to a change of providers of existing electric service.

**R-14-2-210   Billing and Collection**

A.1. Unless otherwise approved by the Commission, the utility or billing entity shall render a bill for each billing period to every customer in accordance with its applicable rate schedule and may offer billing options for the services rendered. Meter readings shall be scheduled for periods of not less than 25 days ~~without customer authorization~~ or more than 35 days without customer authorization. If the utility or Meter Reading Service Provider changes a meter reading route or schedule resulting in a significant alteration of billing cycles, notice shall be given to the affected customers.

A.3.d. Due to customer equipment failure, a 1-month estimation will be allowed. ~~Failure to remedy the customer equipment condition will result in penalties as imposed by the Commission.~~

A.5.d. The utility can obtain a customer-supplied meter reading.

A.6.c. omit (move above to A.5.d. as noted)

C.1. All bills for utility services are shall be due and payable no later less than 15 days from the date of the bill. Any payment not received ~~within this time frame~~ by the due date shall be considered delinquent and could incur a late payment charge.

E.1. ~~The utility or Meter Reading Service Provider shall test a meter upon customer request and each utility or billing entity shall be authorized to charge the customer for such meter test according to the tariff on file approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee may be charged to the customer. If the~~ a tested meter is found to be more than 3% in error, either fast or slow, the correction of previous bills ~~will~~ shall be made under the following terms allowing the utility to recover or refund the difference:

a. If the date of the meter error can be definitely fixed, the utility or billing entity shall adjust the customer's billings back to that date. If the customer has been underbilled, ~~the Company will~~ utility or billing entity shall allow the customer to repay this difference over an equal length of time that the underbillings occurred. The customer ~~may~~ shall be allowed to pay the backbill without late payment penalties, unless there is evidence of meter tampering or energy diversion.

b. If it is determined that the customer has been overbilled and there is no evidence of meter tampering or energy diversion, ~~the Company will~~ utility or billing entity shall make prompt refunds ~~in of~~ the difference between the original billing and the corrected billing within the next billing cycle.

F. ~~Insufficient funds (NSF) or Returned Checks~~ and Other Insufficient Funds

F.1 A utility shall be allowed to recover a fee, as approved by the Commission

in a tariff proceeding, for each instance where a customer tenders payment for utility service ~~with a check which~~ that is returned by the customer's ~~bank~~ financial institution.

- F.2. When the utility is notified by the customer's ~~bank~~ financial institution that the check payment tendered for utility service will not clear, the utility may require the customer to make payment in cash, by money order, certified check, or other means to guarantee the customer's payment to the utility.
- F.3 A customer who tenders such a check an insufficient payment shall in no way be relieved of the obligation to render payment to the utility under the original terms of the bill nor defer the utility's provision of termination of service for nonpayment of bills.

#### **R14-2-1601 Definitions**

8. ~~"Consumer Information"~~ "Consumer Education" is impartial information provided to consumers about competition or competitive and noncompetitive services and is distinct from advertising and marketing.
- 39.a.(i) The value of all the prudent jurisdictional assets and obligations necessary to furnish electricity (such as generating plants, purchased power contracts, fuel contracts, and regulatory assets), acquired or entered into prior to ~~the adoption of this Article~~ December 26, 1996, under traditional regulation of Affected Utilities; and
40. "System Benefits" means Commission-approved utility low-income, demand side management, environmental, and renewables, ~~and nuclear~~ power plant decommissioning programs.

### **R-14-2-1603 Certificates of Convenience and Necessity**

- B.5. Documentation of the financial capability of the applicant to provide the proposed services, including the most recent income statement and balance sheet, the most recent projected income statement, and other pertinent financial information. ~~Audited information shall be provided if available;~~ If available, financial information examined by an independent auditor shall be provided. Unaudited financial information shall be clearly marked "Unaudited" and the preparer identified;

### **R14-2-1604 Competitive Phases**

- B. ~~As part of the minimum 20% of 1995 system peak demand set forth in R14-2-1604(A), each~~ Each Affected Utility shall reserve a residential phase-in program with the following components:
- B.1. A minimum of ~~½ of 1%~~ ten percent of residential customers as of January 1, 1999 ~~will~~ shall have access to competitive electric services on January 1, 1999. The number of customers eligible for the residential phase-in program shall increase by an additional ~~½ of 1%~~ five percent every quarter ~~six months~~ until January 1, 2001.
- B.3. ~~Load profiling may be used; however, residential~~ Residential customers participating in the residential phase-in program shall be permitted to use Load Profiling to satisfy the requirements for hourly consumption data; however they may choose other metering options offered by their Electric Service Provider consistent with the Commission's rules on metering.
- B.4. Each Affected Utility shall file a residential phase-in program proposal ~~to~~ with the Commission for approval by Director, Utilities Division by September 15, 1998. Interested parties will have until September 29,



1998 to comment on any proposal. At a minimum, the residential phase-in program proposal will shall include specifics concerning the Affected Utility's proposed:

- C. Each Affected Utility shall file ~~a report~~ an application by September 15, 1998, detailing ~~possible mechanisms to provide benefits, such as rate reductions of 3% — 5%, to all Standard Offer customers. to decrease~~ standard offer rates by at least three to five percent.
- G. ~~An Affected Utility, Utility Distribution Company, or A~~ Load-Serving entity may, beginning January 1, 2001, engage in buy-throughs with individual or aggregated consumers. Any buy-through contract shall ensure that the consumer pays all non-bypassable charges that would otherwise apply. Any contract for a buy-through effective prior to the date indicated in R14-2-1604(A) [specify which date—both January 1, 1999 and January 1, 2001 are referred to in R14-2-1604.A] must be approved by the Commission.

#### **R14-2-1606 Services Required to be Made Available**

- A. Each Affected Utility shall make available to all consumers ~~in that class in~~ its service area, as defined on the date indicated in R14-2-1602, Standard Offer bundled generation, transmission, ancillary, distribution, and other necessary services at regulated rates. After January 1, 2001 Standard Offer service shall be provided by Utility Distribution Companies who shall also act as Providers of Last Resort.

#### **R14-2-1607 Recovery of Stranded Cost of Affected Utilities**

- D. ~~An Affected Utility shall request Commission approval, on or before August 21, 1998, of distribution charges or other means of recovering unmitigated Stranded Cost from customers who reduce or terminate service from the Affected Utility as a direct result of competition governed~~

~~by this Article, or who obtain lower rates from the Affected Utility as a direct result of the competition governed by this Article. Unmitigated Stranded Costs eligible for recovery shall be recovered both from customers who reduce or terminate generation service from the Affected Utility as a direct result of competition governed by this Article by taking generation service from alternative suppliers, as well as from customers who stay with the Standard Offer service, through a non-bypassable, nondiscriminatory completely neutral wires charge.~~

- E. ~~A Competitive Transition Charge (CTC) may be assessed only on customer purchases made in the competitive market using the provisions of this Article~~ shall be assessed on all customers continuing to use the distribution system based on the amount of generation purchased from any supplier. Any reduction in electricity purchases from an Affected Utility resulting from self-generation, demand side management, or other demand reduction attributable to any cause other than retail access provisions of this Article shall not be used to calculate or recover any Stranded Cost from a consumer.

**R14-2-1608 System Benefits Charges**

- A. By the date indicated in R14-2-1602, each Affected Utility or Utility Distribution Company shall file for Commission review non-bypassable rates or related mechanisms to recover the applicable pro-rata costs of System Benefits from all consumers located in the Affected Utility's or Utility Distribution Companies' Company's service area who participate in the competitive market. Affected Utilities or Utility Distribution Companies shall file for review of the Systems Benefits Charge every 3 years. The amount collected annually through the System Benefits charge shall be

sufficient to fund the Affected Utilities' or Utility Distribution Companies' Commission-approved low income, demand side management, market transformation, environmental, renewables, and long-term public benefit research and development ~~and nuclear fuel disposal and nuclear power plant decommissioning~~ programs in effect from time to time. Now, the Commission will approve a solar water heater rebate program: \$200,000 to be allocated proportionally among the state's Utility Distribution Companies in 1999, \$400,000 in 2000, \$600,000 in 2001, \$800,000 in 2002, and \$1 million in 2003; the rebate will not be more than \$500 per system for Commission staff-approved solar water heaters. After 2003, future Commissions may review this program for efficacy.

**R14-2-1613 Service Quality, Consumer Protections, Safety and Billing Requirements**

- C. No consumer shall be deemed to have changed providers of any service authorized in this Article (including changes from supply by the Affected Utility to another provider) without written authorization by the consumer for service from the new provider. If a consumer is switched ~~(or slammed)~~ to a different ("new") provider without such written authorization, the new provider shall cause services by the previous provider to be resumed and the new provider shall bear all costs associated with switching the consumer back to the previous provider. A written authorization that is obtained by deceit or deceptive practices shall not be deemed a valid written authorization. Providers shall submit reports within 30 days of the end of each calendar quarter to the Commission itemizing the direct complaints filed by customers who have had their Electric Service Providers changed without their authorization. Violations of the Commission's rules concerning slamming unauthorized changes of

providers may result in ~~fin~~es and penalties, including but not limited to and/or suspension or revocation of the provider's certificate.

Insert new paragraph D as follows, and renumber to conform:

D. A customer with an annual load of 100,000 kW or less may rescind its authorization to change providers of any service authorized in this Article within three business days, without penalty, by providing written notice to the provider.

J.7. Competitive customers with hourly loads of 20kW (or 100,000 kWh annually) or less, ~~will~~ shall be permitted to use Load Profiling to satisfy the requirements of hourly consumption data: however, they may choose other metering options offered by their Electric Service Provider consistent with the Commission's rules on metering.

J.8. Meter ownership ~~will~~ shall be limited to the Affected Utility, Utility Distribution Company, and the Electric Service Provider, or the customer, who ~~will obtain~~ obtains the meter from the Affected Utility, or Utility Distribution Company, or an Electric Service Provider.

J.13 through J.15 state specific standards

#### **R14-2-1615 Administrative Requirements**

Insert new paragraph E:

E. Prior to January 1, 1999, the Director, Utilities Division shall implement a Consumer Education program as approved by the Commission.

#### **R14-2-1617 Electric Affiliate Transaction Rules**

A. Separation

An Affected Utility or Utility Distribution Company and its affiliates shall operate as separate corporate entities. Books and records shall be kept separate, in accordance with applicable Uniform System of Accounts (USOA) and Generally Accepted Accounting ~~Procedures~~ Principles

(GAAP). The books and records of any Electric Service Provider that is an affiliate of an Affected Utility or Utility Distribution Company shall be open for examination by the Commission and its staff consistent with the provisions set forth in A.A.C. R14-2-1614. All proprietary information shall remain confidential.

- A.4. An Affected Utility or Utility Distribution Company shall not offer or provide to its affiliates advertising space in any ~~customer~~ written communication to customers unless it provides access to all other unaffiliated service providers on the same terms and conditions.
- A.7. Transfer of Goods and Services: To the extent that these rules do not prohibit transfer of goods and services between an Affected Utility or Utility Distribution Company and its affiliates, all such transfers, including transfers of generation assets, shall be subject to the following price provisions:

**R14-2-1618 Disclosure of Information**

- ~~B.5. Composition of resource portfolio;~~
- ~~B.6. Fuel mix characteristics of the resource portfolio;~~
- ~~B.7. Emissions characteristics of the resource portfolio;~~